

## REMARKS

Claims 21-28 and 34-38 remain pending in this application.

The Specification has been amended to reference the corresponding issued patent.

The abstract has been corrected accordingly.

Claims 1-20 and 29-33 have been cancelled making the double patenting rejection based on U.S. Patent No. 6,780,160 moot.

The claims in copending Application No. 10/407,496 have been amended and do not claim the same invention as the pending Claims in the present application. See the enclosed copy of the amendment mailed December 17, 2004 for the '496 application and marked "Exhibit A".

Claim 21 has been amended to include some of the limitations of cancelled parent Claim 1 and the language is supported by that originally filed claim. The removeable and replaceable plug feature is supported at page 13, line 9. The claimed device provides added protection against spillage or contamination for a double openable ended specimen carrier while providing for automated machine access.

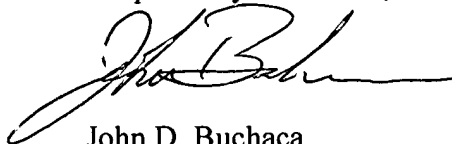
Claims 24 and 25 has been amended to correct dependency.

New Claims 34-38 derive their language from original Claims 6, 8, 9, 12 and 20 respectively. No new matter has been added.

A Terminal Disclaimer is filed herewith to overcome the obviousness-type double patenting rejection. A check for \$55.00 to cover the fee under 37 CFR 1.20(d) is enclosed.

Applicant reserves the right to further prosecute the cancelled claims and any other broad claims directed toward the invention in continuing applications.

Respectfully submitted,




John D. Buchaca  
Registration No. 37,289

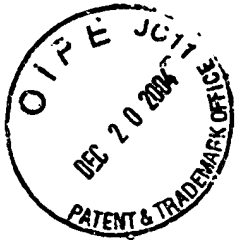
Date: 12-17-04

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hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450, on December 17, 2004 by John D. Buchaca, Reg. No. 37,289.

Signature:  Date: 12-17-04



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Washington D.C. 20231

In re application of:

DAVID F. ZHOU et al.

Serial No.: 10/407,496

Filed: April 3, 2003

For: Specimen collection and storage and  
transport device and method

)  
) Examiner: Brian Scott Szmal

)  
) Art Unit: 3736

AMENDMENT

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the office action mailed September 17, 2004 please amend the application as  
indicated below:

**In the Specification**

One page 1, please amend the section “Prior Application” at line 2-3 to read as follows.

This is a continuation-in-part of patent application Serial Number 10/205,712 filed July 25, 2002, now U.S. Patent No. 6,780,160.

### **In the Abstract**

Please amend the abstract as follows:

A device for quantitatively collecting, preserving and mailing a fresh and wet specimen of fecal or other biological matter for later analysis comprises a tubular vessel defining a chamber closed at one axial end by ~~a plug~~ an openable plug and restricted at the opposite end by a narrow aperture. A stopper for closing the open end of the vessel extends into a stick ~~whose distal portion has indentations capable of retaining a portion of the biological matter when the stick is dipped into it for dipping into and retaining some of the biological matter.~~ A medial portion of the stick is shaped and dimensioned to intimately and circumferentially contact the edge of the aperture so that the amount of matter introduced into the chamber is limited and the excess stored outside the chamber in the presence of a desiccant for drying. The shank of the stick is dimensioned to seal the aperture once the stopper has been screwed upon the open end of the vessel. ~~The plug mounts a breakable hollow nib and is installed after introduction into the chamber of a metered volume of preserving solution.~~ A cover caps the plug ~~and nib~~ to provide additional sealing of that end of the vessel during transportation. The mail transportation of the vessel device with a sealable shipping capsule that is essentially leakproof. A disposable telescoping handle mounts to the stopper to allow the user to stab at matter such as feces in a toilet without contacting the toilet water.

**In the Claims**

Please cancel Claims 1-12 and 20, and amend Claims 13, 15, 18, 19 and 21 as follows.

- 1      1. (Cancelled).
- 1      2. (Cancelled) .
- 1      3. (Cancelled) .
- 1      4. (Cancelled) .
- 1      5. (Cancelled) .
- 1      6. (Cancelled) .
- 1      7. (Cancelled) .
- 1      8. (Cancelled) .
- 1      9. (Cancelled) .
- 1      10. (Cancelled) .

1 11. (Cancelled) .

1 12. (Cancelled) .

1 13. (Currently Amended) ~~The device of Claim 11;~~ A device, for quantitatively collecting,  
2 preserving and transporting a specimen of material for later analysis, which comprises:

3 a vessel having a first closed end defining at least one sealed access port, a second open end  
4 opposite said first end;

5 a stopper shaped and dimensioned to close said open end;

6 a cover releasably occluding said sealed access port;

7 an outer transport capsule sized and shaped to fully enclose said vessel, stopper, and cover;

8 and,

9 wherein said capsule comprises a ~~substantially cylindrical~~ cup and an end cap.

1 14. (Previously Presented) The device of Claim 13, wherein said end cap comprises:

2 a hollow frusto-conical spring pedestal having an outer surface shaped and dimensioned to  
3 penetrate a substantially cylindrical hole in an outer surface of said stopper.

1 15. (Currently Amended) The device of ~~Claim 1~~ Claim 13, which further comprises an oblong  
2 handle having a tip sized to releasably mount said stopper thereon.

1 16. (Previously Presented) The device of Claim 15, wherein said handle further comprises a first

2 member slidably mounted to a second member.

1 17. (Previously Presented) The device of Claim 15, wherein said handle further comprises at least  
2 two coaxially telescoping members.

1 18. (Currently Amended) The device of ~~Claim 1~~ Claim 15, wherein said handle in a collapsed  
2 configuration is sized to be enclosed within said capsule.

1 19. (Currently Amended) The device of ~~Claim 1~~ Claim 13, which further comprises an amount of  
2 desiccant located ~~in said second chamber~~ in said vessel.

1 20. (Cancelled).

1 21. (Currently Amended) A method for quantitatively collecting a specimen of biological matter  
2 which comprises:

3 releasably engaging an extendible handle onto a stick;

4 dipping ~~the~~ an indented distal end of ~~a stick~~ said stick into said matter;

5 inserting said distal end into a vessel through an aperture shaped and dimensioned to  
6 intimately and circumferentially contact said distal end;

7 whereby excess collected matter on the surface of said distal end outside said indentations  
8 are kept out of said vessel by passage of said distal end through said aperture; and

9 introducing into said vessel a measured volume of specimen-preserving fluid.



1      22. (Previously Presented) The method of Claim 21, wherein said method further comprises:  
2              keeping said excess collected matter in a chamber adjacent to said vessel.

1      23. (Previously Presented) The method of Claim 22, wherein said keeping comprises:  
2              drying said excess collected matter in the presence of a desiccant.

## REMARKS

Claims 13-19 and 21-23 remain pending in this application.

The Specification has been amended to reference the corresponding issued patent.

The abstract has been corrected accordingly.

Claims 1-12 and 20 have been cancelled making the double patenting rejection based on U.S. Patent No. 6,780,160 moot.

The claims in copending Application No. 10/766,135 have been amended and do not claim the same invention as the pending Claims in the present application. See the enclosed copy of the amendment mailed December 17, 2004 for the '135 application and marked "Exhibit A".

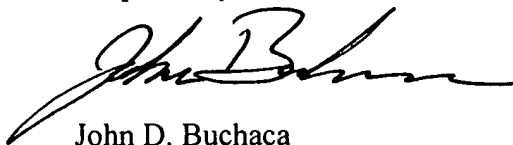
Claim 13 has been amended to include some of the limitations of cancelled parent Claims 1 and 11 and the language is supported by those originally filed claims. The claimed device provides added protection against spillage or contamination for a double openable ended specimen carrier.

In Claim 21, support for the added language may be found in the Specification page 13, lines 20-24.

Claim 21 now requires that the stick be engaged by an extendible handle. This method allows a user to collect fecal samples from a toilet with a lesser risk of a hand contacting the toilet or its contents. Such features and advantages do not appear to be discussed in either of the cited references.

Applicant reserves the right to further prosecute the cancelled claims and any other broad claims directed toward the invention in continuing applications.

Respectfully submitted,



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Signature: \_\_\_\_\_



Date: \_\_\_\_\_

12-17-04